

REMARKS

Claims 1-12 are pending in the application. Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sonnenschein et al. (U.S. Patent No. 6,125,080) in view of Reynolds (U.S. Patent No. 5,929,777) and further in view of Nitta et al. (U.S. 5,950,127).

Claims 1 and 7 are the independent claims pending in this application. The combination of Sonnenschein, Reynolds and Nitta was cited as allegedly disclosing each of the recitations of independent Claims 1 and 7. Claims 1 and 7 have been amended to further distinguish the invention as claimed from the cited references.

Claim 1 of the present application reads, in part, a frequency modulation section in which the MTT transfers to the SOS service mode according to the user's request of emergency assistance and when the MTT is in a "No Service Area" or cannot communicate via the base station. Claim 7 recites, in part, a comparable method step.

Sonnenschein discloses a method, apparatus, and network for carrying out underwater communication, and provides means for transferring messages between several users, wherein at least some of them are located underwater. Sonnenschein also provides that each personal underwater communication device is further provided with means for transmitting, receiving, and alerting the user about receipt of emergency signals.

The Examiner in the current Office Action asserts that Sonnenschein also teaches that the MTT transfers to the SOS mode when the MTT is in a "No Service Area" (col. 3 line 64-col.4 line 18, col. 9 lines 3-35, col. 7 lines 27-49). Sonnenschein, however, discloses nothing about transfer to the SOS service mode when the MTT is in a "No Service Area".

The emergency mode of Sonnenschein involves utilization of an emergency frequency that is transmitted to all the other users of the communication devices. According to Sonnenschein, each device includes an additional emergency receiving unit, in parallel to its means for receiving general messages. The additional receiving unit utilizes the same components as the routine communication path. Consequently, if the MTT is in a "No Service Area" or cannot communicate with a base station for its routine communication path, it is also unable to communicate with the emergency mechanism. The emergency mode of Sonnenschein is a backup and a method to alert all current users simultaneously of an emergency. It does not attempt to contact out of network rescuers on an emergency frequency and in fact the signals are only available to the existing users of this very specialized system. Without the very specialized receiving device, rescuers would not be able to decode the emergency signal. In contrast, the present application does not require a specialized receiver to intercept an emergency message and may even use a general terminal for receiving the emergency message. Based on this, the device of Sonnenschein does not teach transfer to the SOS service mode when the MTT is in a "No Service Area", because it is non-functional in a "No Service Area" or when otherwise unavailable to communicate via the base station.

Reynolds does not teach transfer to the SOS service mode in a "No Service Area". Reynolds addresses a personal infrared beacon unit capable of being worn or embodied in a phone or communication device where the unit may be in communication with an established network through electronic locator devices carried on search vehicles. The Examiner acknowledges that Reynolds does not teach providing emergency communication when the MTT cannot communicate via the base station or is in a "No Service Area."

Nitta discloses "*a mode switching method* for a mobile station, which is suitable for mobile communication *in which different service areas over-lap*" (col. 1, lines 6-8), when there are *overlapping areas* of coverage provided by separate base stations. Nitta further discloses these overlapping areas in which it is desirable to employ "a mode

switching method for a mobile station capable of restraining the increase in traffic on the control channel by preventing flapping when selecting modes". (col. 4, lines 7-11) The increase in traffic on the control channel requires the mobile station to remain in communication with a base station using a control channel.

The present application recites a change of mode when a user requests emergency assistance and when the MTT is in a "No Service Area" or cannot communicate via the base station. Because the MTT is in a "No Service Area", there cannot be an increase in traffic on the control channel when switching modes because there is no control channel. Thus, Nitta teaches away from the present invention. Further, although Nitta provides a backup method of connection; service is not provided everywhere. In a "No Service Area" or area where connection with the system is not possible, Nitta does not provide an SOS service mode. Further, Nitta does not teach or suggest an SOS service mode, which permits communication without system resources, or even allowing communication with a general terminal.

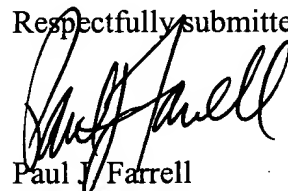
Nitta also teaches applying "a hysteresis to the timing of the actual mode switching by using a timer, in order to avoid mode switching in the distinct service area" (col. 8, lines 18-23). This delays the mode switching to avoid mode switching in distinct service areas (col. 8, lines 18-23). The present invention as recited in Claims 1 and 7 are drawn to a device and method for transmitting SOS signals in a MTT. SOS signals are emergency signals in which time urgency is implicit. Incorporating a delay in the switching would be counter to the objective of the present invention. A three-minute delay, as taught by Nitta in mode switching, would not be acceptable in an emergency transmission system. As such, Nitta again teaches away from the present invention.

Because Sonnenshein, Reynolds, nor Nitta alone or in combination do not teach transfer to an SOS service mode according to the user's request of emergency assistance and when the MTT is in a "No Service Area" or cannot communicate via the base station, Claims 1 and 7 are not rendered obvious.

Accordingly, it is believed that independent Claims 1 and 7, as amended are in condition for allowance. Without conceding the patentability *per se* of the dependent claims, Claims 2-6 and 8-12 are also believed to be in condition for allowance for at least the above reasons. Accordingly, it is respectfully requested that the Examiner request reconsider and withdraw the rejections of Claims 1-12.

Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicant's attorney at the number given below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Paul J. Farrell", is written over the typed name.

Paul J. Farrell
Reg. No. 33,494
Attorney for Applicant

DILWORTH & BARRESE, LLP

333 Earle Ovington Blvd.
Uniondale, New York 11553
Tel: (516) 228-8484
Fax: (516) 228-8516

PJF/EJS/dr